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09/825,758	04/03/2001	Tiffany A. Thompson	108.0005-00000	7310
22882 7590 11/20/2007 MARTIN & FERRARO, LLP 1557 LAKE O'PINES STREET, NE HARTVILLE, OH 44632			EXAMINER NGUYEN, TRI V	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/825,758

Applicant(s)

THOMPSON ET AL.

Examiner

Tri V. Nguyen

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,11-26 and 28-68 is/are pending in the application.
- 4a) Of the above claim(s) 29-68 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8,11-26,28-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Upon entry of the amendment filed on 09/05/07, Claims 1-3, 11-17, 19-26 and 28-48 are amended, Claims 49-68 are withdrawn and Claims 7, 9, 10 and 27 are cancelled. The currently pending claims considered below are Claims 1-6, 8, 11-26 and 28-48.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 28-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 28 and 30 recite the limitation "the method claim 27" in line 1. There is insufficient antecedent basis for this limitation in the claim as claim 27 has been cancelled. Claim 29 is dependent on claim 28 thus inherits the same deficiency.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 25, 26, 30, 35, 36, 38 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Kim et al. (US 2002/0052925).

Claim 25: Kim et al. disclose a method for delivering advertising content to a visual display adapted to display a user interface for use by a user, said method comprising the steps of:

- a. Detecting the user's interaction with the user interface(see at least parag. 77-81 and 145-147);
- b. measuring an amount of time between the user's interactions with the user interface (see at least parag. 77-81 and 145-147); and
- c. launching the advertising content to the visual display after a selected elapsed interval of time if the user's interaction with the user interface occurs during the selected elapsed interval of time (see at least parag. 77-81 and 145-147).

Claim 26: Kim et al. disclose the method of claim 25, wherein said measuring step commences upon the user selecting content through the user interface (see at least parag. 77-81 and 145-147).

Claim 30: Kim et al. disclose the method of claim [27] 25, wherein said delivering step delivers the advertising content over at least one of the following mediums: Internet, cable, digital subscriber line, and wireless (see at least parag. 77-81 and 145-147).

Claim 35: Kim et al. disclose the method of claim 25, wherein after completion of said launching step, said measuring and launching steps are repeated (see at least parag. 77-81 and 145-147).

Claim 36: Kim et al. disclose the method of claim 25, wherein the measuring step includes the user interacting with the user interface via a keyboard (see at least parag. 77-81 and 145-147).

Claim 38: Kim et al. disclose the method of claim 25, wherein the measuring step includes the user interacting with the user interface via a link to another web page (see at least parag. 77-81 and 145-147).

Claim 40: Kim et al. disclose the method of claim 25, further comprising the step of delivering video content to the user (see at least parag. 77-81 and 145-147).

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1-6, 8, 11, 15, 16, 18, 19, 21-24, 42, 46, 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. in view of Cannon et al. and Pieper (as taken from the website www.keithPieper.com on November 1999).

Claim 1: Kim et al. disclose a method for delivering advertising content to a visual display adapted to display a user interface for use by a user, said method comprising the steps of:

- a. Detecting a user session, the session commencing upon the user interacting with the user interface, the user interface being a graphical display software presented on the display (see at least parag. 77-81 and 145-147);
- b. Starting an ad timer upon the user making a request for user requested content by interacting with the user interface, the ad timer being set for an interval of time (see at least parag. 77-81 and 145-147);
- c. Delivering the user requested content to the user interface – the examiner remarks that the feature of displaying the content is a reasonable interpretation of the present step (see at least parag. 77-81 and 145-147);

- d. Determining if the interval of time of the ad timer has elapsed when the user makes a subsequent request for user requested content by interacting with the user interface (see at least parag. 77-81 and 145-147);
- e. Interrupting the delivering of the user requested content to the user interface and delivering the advertising content to the user interface if the interval of time of the ad timer has elapsed (see at least parag. 77-81 and 145-147);
- f. Resetting the ad timer after the delivering of the advertising content is complete (see at least parag. 77-81 and 145-147); and
- g. Continuing the delivering the user requested content to the user interface after the delivering of the advertising content is complete (see at least parag. 77-81 and 145-147).

However, Kim et al. do not explicitly disclose interrupting the delivery of the content to display the advertisement followed by continuing the delivery until the advertising content is complete. In an analogous art, Pieper discloses various advertising architecture (e.g. pop-up window, splash screen and intermercial) with variables such as window size, frequency and open/close methods (pages 18-20 and 52) and Cannon et al. disclose a similar method for delivering advertising content to a user in which displays an advertisement "that the user cannot remove or reduce in size" (page 2, paragraph 0018) and that "the supplemental content is displayed such that it cannot be shut-off or the display of the supplemental content closed before it has been displayed (page 15, paragraph 00175). Cannon discloses several methods of preventing the user from using the interface functions to remove, reduce, shut-off, or closed, such as using Java code. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

Claims 2 and 3: Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses commencing the detecting step upon an initial interaction by the user, such as selecting content through the interface (Kim et al.: parag. 77-81 and 145-147).

Claims 4: Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses the interval being fixed (Kim et al.: parag. 77-81 and 145-147).

Claims 5, 6 and 8: Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in Claims 1 and 4 above, but do not explicitly disclose that the fixed time interval is 5 minutes or a variable interval depending on the user session. The Examiner notes that the Applicant has not disclosed, nor discussed, any reason for or advantage in setting the length to exactly 5 minutes instead of 4 minutes or 30 seconds, or any other time; thus, the selection of 5 minutes or a variable time is seen as an optimization result variable decision which is given little, if any, patentable weight. It would have been obvious to one having ordinary skill in the art at the time the invention was made to allow the designer to set the interval to 5 minutes or any other desired elapsed time interval. One would have been motivated to set the interval to a specific time, such as 5 minutes, in view of Kim et al., Cannon et al. and Pieper's disclosure of displaying after a predetermined time such as 3 minutes (Kim et al.: parag. 81). The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

Claim 11 : Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses the delivery medium being at least one of the Internet, cable, digital subscriber line, and wireless (Kim et al.: parag. 77-81 and 145-147).

Claim 15 and 46: Kim et al., Cannon et al. and Pieper disclose the method for delivering streaming video advertising content to a user as in claims 1 and 42 but do not explicitly disclosed that user interface functions are suspended during the delivery step. In a related art, Cannon discloses a similar method for delivering advertising content to a user in which displays an advertisement "that the user cannot remove or reduce in size" (page 2, paragraph 0018) and that "the supplemental content is displayed such that it cannot be shut-off or the display of the supplemental content closed before is has been displayed (page 15, paragraph 00175). Cannon discloses several methods of preventing the user from using the interface functions to remove, reduce, shut-off, or closed, such as using Java code. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to suspend the user interface functions in Kim et al., Cannon et al. and Pieper while the advertising content was being delivered to the user. One would have been motivated to suspend their functions in order to ensure that the user had been exposed to the entire advertising content. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

Claim 16: Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses repeating the timing, determining, and delivering steps (Kim et al.: parag. 77-81 and 145-147).

Claim 18: Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses the advertising content includes a link to at least one Internet address (Kim et al.: parag. 77-81 and 145-147).

Claim 19: Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses the user interacting via a keyboard (Kim et al.: parag. 77-81 and 145-147).

Claim 21: Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in Claim 1 above, and further discloses the user interacting via a link to another web page (Kim et al.: parag. 77-81 and 145-147).

Claim 22: Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in Claim 1 above, but do not explicitly disclose that the advertising content is continued to be delivered after a second interaction by the user. However, the Examiner notes that this is a an optimization result variable decision and that the frequency of presentation of the advertising content may be set at any desired level by the entity setting up the system, such as after every interaction, every other interaction, every third interaction, etc. without affecting the other steps of the claims. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to set the frequency in Kim et al., Cannon et al. and Pieper to every two interactions. One would have been motivated to set the frequency at every two interactions to prevent overloading the user with advertising content.

The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

Claim 23: Kim et al., Cannon et al. and Pieper disclose the method of claim 1, further comprising the step of delivering video content to the user (Kim et al.: parag. 77-81 and 145-147).

Claims 24 and 48: Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in Claims 23 and 42 above, but do not explicitly disclose delivering (displaying) the advertising content to the user after completion of the video content in order to create a commercial-free video. However, the Examiner notes that the content of the website or advertising material (for example both the content of the website and the advertisement can be in the form of a video) are construed as nonfunctional descriptive material which is given little, if any, patentable weight and does not affect the method steps of the claims. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to deliver the content of the advertising material after a video playback. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

Claim 42: Kim et al. disclose a method for delivering advertising content to a user interface for display on a visual display to a user, said method comprising the steps of:

- a. time-stamping a user session profile during a user session, the user session commencing upon the user interacting with the user interface;

- b. detecting an address for contents requested by the user(see at least parag. 77-81 and 145-147);
- c. saving the address requested by the user and interrupting the delivery of the contents of the address if a selected interval of time has elapsed since said time-stamping step (see at least parag. 77-81 and 145-147);
- d. delivering the advertising content to the visual display, the delivering of the advertising content to the visual display being uninterruptible by the user for a selected period of time (see at least parag. 77-81 and 145-147); and
- e. continuing the delivery of the contents of the address requested by the user to the user interface after the delivering of the advertising content is complete (see at least parag. 77-81 and 145-147).

Kim et al. disclose the method of presenting advertisement but do not explicitly disclose the time stamp, the saving of the address and interrupting the delivery of the content to display the advertisement followed by continuing the delivery until the advertising content is complete. However, the Examiner notes that since Kim et al. teach a timer to schedule the presentation of the advertising content, it would have been obvious to a skilled artisan to use a time stamp as a marker. One would be motivated to efficiently track the elapsed time and gain information on information retrieval and delivery. In an analogous art, Pieper discloses various advertising architecture (e.g. pop-up window, splash screen and intermercial) with variables such as window size, frequency and open/close methods (pages 18-20 and 52) and Cannon et al. disclose a similar method for delivering advertising content to a user in which displays an advertisement "that the user cannot remove or reduce in size" (page 2, paragraph 0018) and that "the supplemental content is displayed such that it cannot be shut-off or the display of the supplemental content closed before it has been displayed (page 15, paragraph 00175). Cannon

discloses several methods of preventing the user from using the interface functions to remove, reduce, shut-off, or closed, such as using Java code. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

Claim 47: Kim et al., Cannon et al. and Pieper disclose the method of claim 1, further comprising the step of delivering video content to the user (Kim et al.: parag. 77-81 and 145-147).

8. Claims 28, 29, 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al.

Claims 28 and 29: Kim et al. disclose a method for delivering advertising content to a user as in Claim [27] 25 above, and but do not explicitly disclose further pausing the timing step during the delivery of the advertising content and un-pausing the timing step after the delivery is completed. The Examiner notes that the Applicant has not disclosed, nor discussed any reason for or advantage in the pausing function of the timer. Kim et al. disclose that the length of time is predetermined. The examiner construes the timing step as an optimization result variable decision which is given little, if any, patentable weight. It would have been obvious to one having ordinary skill in the art at the time the invention was made to allow the designer to pause and un-pause the set the interval to any desired elapsed time interval. One would have been motivated to set the interval to a specific time with or without un-pausing the timer in view of Kim et al.'s disclosure of displaying after a predetermined time such as 3 minutes (parag. 81). The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

Claim 39: Kim et al. disclose a method for delivering advertising content to a user as in Claim 25 above, but does not explicitly disclose that the advertising content is delivered after the second interaction by the user. However, the Examiner notes that this is a an optimization result variable decision and that the frequency of presentation of the advertising content may be set at any desired level by the entity setting up the system, such as after every interaction, every other interaction, every third interaction, etc. without affecting the other steps of the claims. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to set the frequency in Kim et al. to every two interactions. One would have been motivated to set the frequency at every two interactions to prevent overloading the user with advertising content. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

Claim 41: Kim et al. disclose a method for delivering advertising content to a user as in Claim 40 above, but do not explicitly disclose delivering (displaying) the advertising content to the user after completion of the video content in order to create a commercial-free video. However, the Examiner notes that the content of the website or advertising material (for example both the content of the website and the advertisement can be in the form of a video) are construed as nonfunctional descriptive material which is given little, if any, patentable weight and does not affect the method steps of the claims. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to deliver the content of the advertising material after a video playback. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

9. Claims 15 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al., Cannon et al. and Pieper in view of Cannon et al (US 2002/0016736).

Claims 15 and 46: Kim et al., Cannon et al. and Pieper disclose the method for delivering streaming video advertising content to a user as in claims 1 and 42 but do not explicitly disclosed that user interface functions are suspended during the delivery step. In a related art, Cannon discloses a similar method for delivering advertising content to a user in which displays an advertisement "that the user cannot remove or reduce in size" (page 2, paragraph 0018) and that "the supplemental content is displayed such that it cannot be shut-off or the display of the supplemental content closed before is has been displayed (page 15, paragraph 00175). Cannon discloses several methods of preventing the user from using the interface functions to remove, reduce, shut-off, or closed, such as using Java code. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to suspend the user interface functions in Kim et al., Cannon et al. and Pieper while the advertising content was being delivered to the user. One would have been motivated to suspend their functions in order to ensure that the user had been exposed to the entire advertising content. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

10. Claims 12-14 and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al., Cannon et al. and Pieper and further in view of Capek et al (6,094,677).

Claims 12-13 and 43-44: Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in the above Claims but do not explicitly disclose that the streaming video is broadcast quality video. The Examiner notes that the quality of the video

does not affect the step of delivering the video advertising content to the user. Furthermore, Capek discloses a similar method for delivering streaming video advertising content to a user in which the streaming video is broadcast quality video (col 12, lines 64 - col 13, line 6). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to deliver broadcast quality video advertising content to the user in Kim et al., Cannon et al. and Pieper One would have been motivated to deliver broadcast quality video in order to present the user with the clearest and most legible advertising copy as possible. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

Claims 14 and 45: Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in the above Claims but do not explicitly disclose that the video is delivered at a bit rate of at least 144 Kbps. The Examiner first notes that the speed of delivery through the Internet is based on the slowest connection during the transmission and that this connection is dynamic in that the connecting nodes are constantly changing. Thus, while it may be desired that the delivery rate does not fall below 144 Kbps, it cannot be assured when connecting through the Internet. Additionally, Official Notice is taken that it is old and well known to transmit streaming video at as high of bit rate as possible to prevent the video presentation from jerking or freezing. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to deliver the streaming video at 144 Kbps or faster, whenever possible. One would have been motivated to maintain this transmission speed in order to prevent jerking or freezing of the video presentation as discussed by Kim et al., Cannon et al. and Pieper. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

11. Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al., Cannon et al. and Pieper in view of Slotznick (6,011,537).

Claim 17: Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in Claim 1 above, but do not explicitly disclose that the advertising content completely fills the visual display. However, Slotznick discloses a similar method for delivering advertising content to a user in which the advertising content fills the entire display screen (visual display)(col 23, lines 11-16 and col 24, lines 23-28). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to cover the entire visual display of Kim et al., Cannon et al. and Pieper's user with the advertising content. One would have been motivated to cover the entire visual display in view of Kim et al.'s disclosure that the advertising content will be display prior to displaying the requested content. Having the advertising content cover the entire visual would eliminate any "dead" or "black-out" areas of the display while waiting for the requested content to be displayed. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

Claim 20: Kim et al., Cannon et al. and Pieper disclose a method for delivering advertising content to a user as in Claim 25 above, but do not explicitly disclose the user interacting with the user interface via a voice-activated device. However, Slotznick discloses a similar method for delivering advertising content to a user in which the user may interact with the user interface by "speaking a command to a device equipped with a voice recognition module" (col 13, lines 21 - 25). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a voice-activated interfacing device in Kim et al., Cannon et al.

and Pieper. One would have been motivated to use a voice-actuated device in order to allow the system to be used by physically disabled users and by users who need a hands-free means for entering data, such as users who are driving vehicles. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

12. Claims 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. in view of Capek et al (6,094,677).

Claims 31-32: Kim et al. disclose a method for delivering advertising content to a user as in the above Claims but do not explicitly disclose that the streaming video is broadcast quality video. The Examiner notes that the quality of the video does not affect the step of delivering the video advertising content to the user. Furthermore, Capek discloses a similar method for delivering streaming video advertising content to a user in which the streaming video is broadcast quality video (col 12, lines 64 - col 13, line 6). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to deliver broadcast quality video advertising content to the user in Kim et al. One would have been motivated to deliver broadcast quality video in order to present the user with the clearest and most legible advertising copy as possible. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

Claim 33: Kim et al. disclose a method for delivering advertising content to a user as in the above Claims but do not explicitly disclose that the video is delivered at a bit rate of at least 144 Kbps. The Examiner first notes that the speed of delivery through the Internet is based on the slowest connection during the transmission and that this connection is dynamic in that the

connecting nodes are constantly changing. Thus, while it may be desired that the delivery rate does not fall below 144 Kbps, it cannot be assured when connecting through the Internet. Additionally, Official Notice is taken that it is old and well known to transmit streaming video at as high of bit rate as possible to prevent the video presentation from jerking or freezing. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to deliver the streaming video at 144 Kbps or faster, whenever possible. One would have been motivated to maintain this transmission speed in order to prevent jerking or freezing of the video presentation as discussed by Kim et al. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

13. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. in view of Cannon et al (US 2002/0016736).

Claim 34: Kim et al. disclose the method for delivering streaming video advertising content to a user as in claim 27 but do not explicitly disclosed that user interface functions are suspended during the delivery step. In a related art, Cannon discloses a similar method for delivering advertising content to a user in which displays an advertisement "that the user cannot remove or reduce in size" (page 2, paragraph 0018) and that "the supplemental content is displayed such that it cannot be shut-off or the display of the supplemental content closed before is has been displayed (page 15, paragraph 00175). Cannon discloses several methods of preventing the user from using the interface functions to remove, reduce, shut-off, or closed, such as using Java code. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to suspend the user interface functions in Kim et al. while the advertising content was being delivered to the user. One would have been motivated to

suspend their functions in order to ensure that the user had been exposed to the entire advertising content. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

14. Claim 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. in view of Slotznick (6,011,537).

Claim 37: Kim et al. disclose a method for delivering advertising content to a user as in Claim 25 above, but do not explicitly disclose the user interacting with the user interface via a voice-activated device. However, Slotznick discloses a similar method for delivering advertising content to a user in which the user may interact with the user interface by "speaking a command to a device equipped with a voice recognition module" (col 13, lines 21 -25). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a voice-activated interfacing device in Kim et al. One would have been motivated to use a voice-actuated device in order to allow the system to be used by physically disabled users and by users who need a hands-free means for entering data, such as users who are driving vehicles. The claim would have been obvious because a particular known technique was recognized as part of the ordinary capabilities of a skilled artisan.

Response to Arguments

Applicant's arguments filed on 09/05/07 have been fully considered but they are not persuasive.

At the onset, the examiner notes that if the advertisement is a picture or text, the mere fact of showing the picture followed by displaying the content is commensurate to the instant claim. Regarding applicants' argument on the interruption of the delivering of the web page

being interpreted as interruption of the download (page 12), the examiner notes that the delivering feature can be reasonably construed as the showing/display of the content and that downloading does not have a literal basis as delivering. The full browser advertising of Kim et al. prevent the delivery of the content since the content cannot be seen/accessed by the user (parag. 45).

Regarding applicants' argument that Kim et al.'s time measurement differs from measuring time between interactions, the examiner respectfully disagrees as Kim et al. teach that time is measured for each user's interactions in order to determine the suitable time for displaying the advertising (parag. 79-81 and 145-147). Kim et al. teach event triggers such as clicking a link or entering an address being match with time trigger (for example, the advertising is not shown even though 3 minutes have passed if there is no event trigger – user has not finished reading a website).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Buch et al. (US 6,463,468) disclose a frequency based advertising scheme.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri V. Nguyen whose telephone number is (571) 272-6965. The examiner can normally be reached on M-F 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119 and Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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11/14/2007


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